

**REMARKS / ARGUMENTS**

For the convenience of the Examiner and clarity of purpose, Applicant has reprinted the substance of the Office Action in ***10-point bolded and italicized font*** (although not necessarily in the same order). Applicant's arguments immediately follow in regular font.

*Election/Restrictions*

*Restriction to one of the following inventions is required under 35 U.S.C. 121:*

- I.      Claims 1-9, 19-20, drawn to process and apparatus for grinding waste material, classified in class 241, subclass 21.*
- II.     Claims 10-16, drawn to apparatus including to a particular type motor for grinding waste material, classified in class 241, subclass 101.2.*
- III.    Claim 17, drawn to a waste disposer, classified in class 241, subclass 46.013.*

*The inventions are distinct, each from each other, because of the following reasons: Groups II/III do not require the surrounding discharge member of Group I. Group III does not require the particular motor of Group II.*

*Applicant is advised that the reply to this requirement to be complete must include (i) an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143), and (ii) identification of the claims encompassing the elected invention.*

*The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.*

*Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the Examiner finds one of the inventions unpatentable over the prior art, the evidence or testimony may be used in a rejection under 35 U.S.C. 103(a) of the other invention.*

Regardless of whether the identification of species presented by the Examiner is correct and regardless of whether an election of species is appropriate in this matter, Applicant hereby elects, without traverse, to continue prosecution of the claims reading on the invention in Group I, claims 1-9 and 19-20. The non-elected claims have been withdrawn from this application. Applicant reserves the right to prosecute the non-elected claims in one or more related patent applications.

*Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).*

No change in inventive entity is believed due at this time.

### Amendments to Claims

Applicant has amended Claims 1 and 4 herein in order to place the application in better condition for examination. Claims 10-17 have been withdrawn consistent with the election herein. New claims 21-24 have been added. Consequently, claims 1-9 and 19-24 are currently pending in the application. No change in claim scope is intended by these amendments.

Claims 1 and 4 have been amended herein for issues of clarity, and are not believed to constitute the addition of new matter. Support for the amendments to claim 1 can be found in the specification as originally filed, for example, in paragraphs [0021] and [0029]. Support for the amendment to claim 4 can be found in the original specification at paragraph [0022]. Support for newly added claims 21-24 can be found in the originally-filed specification in paragraphs [0025]-[0027].

### Conclusion

No fees are believed to be due in association with this paper. However, should it be determined that any fees are due in connection with this matter, the Commissioner is hereby authorized to charge such fees and any other fees deemed necessary to make this a timely and effective response to Locke Liddell & Sapp LLP Deposit Account No. 12-1322, referencing matter No. 021902-153US/MRR.

Applicant thanks the Examiner for his consideration and effort on this file. If there are

**Appl. No. 10/709,842**

**Amdt. Dated November 20, 2006**

**Reply to Office Action of October 25, 2006**

any questions or if additional information is needed, the Examiner is invited to telephone or email the undersigned.

Respectfully submitted,

Dated: November 20, 2006

**LOCKE LIDDELL & SAPP LLP**

/Monte R. Rhodes/

Monte R. Rhodes, Ph.D.

Reg. No. 54,396

Customer No.: 026720

AGENT FOR ASSIGNEE

EMERSON ELECTRIC CO.

Locke Liddell & Sapp LLP  
3400 JPMorgan Chase Tower  
600 Travis Street  
Houston, TX 77002-3095  
Tel: (713) 226-1326  
Fax: (713) 223-3717